

**ENTERED**

August 20, 2024

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

JAMES ROBERT HATTENBACH,

§

Plaintiff,

§

V.

CIVIL ACTION NO. 2:23-CV-00179

LOWELL TIMOTHY JAROE, *et al.*,

§

Defendants.

§

**ORDER ADOPTING MEMORANDUM & RECOMMENDATION**

Before the Court is Magistrate Judge Julie K. Hampton's Memorandum and Recommendation ("M&R"). (D.E. 25). The M&R recommends that the Court dismiss the case without prejudice for failure to prosecute. *Id.* at 1, 3.

The parties were provided proper notice of, and the opportunity to object to, the Magistrate Judge's M&R. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b); General Order No. 2002-13. No objection has been filed.<sup>1</sup> When no timely objection has been filed, the district court need only determine whether the Magistrate Judge's M&R is clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (per curiam); *Badaiki v. Schlumberger Holdings Corp.*, 512 F. Supp. 3d 741, 743–44 (S.D. Tex. 2021) (Eskridge, J.).

Having reviewed the proposed findings and conclusions of the Magistrate Judge, the filings of the parties, the record, and the applicable law, and finding that the M&R is not clearly erroneous or contrary to law, the Court **ADOPTS** the M&R in its entirety. (D.E. 25). Accordingly, the Court **ORDERS** that this case be **DISMISSED without prejudice** for failure to prosecute. (D.E. 1);

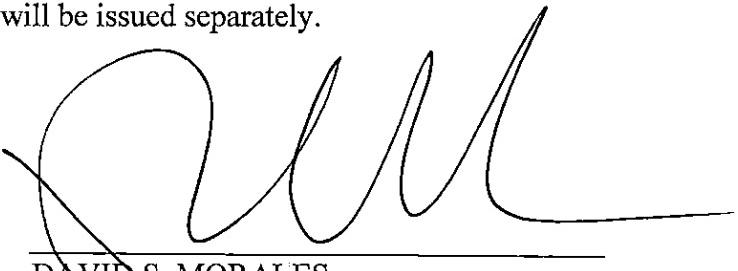
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<sup>1</sup> The Court mailed a copy of the D.E. 25 M&R to Plaintiff. This mail was returned as undeliverable. *See* (D.E. 27). The Court has since waited an appropriate amount of time and Plaintiff has neither notified the Court of an updated address nor objected to the D.E. 25 M&R. As such, the Court considers this M&R ripe.

*United States v. Carter*, 737 F. App'x 687, 692 (5th Cir. 2018) (per curiam) (explaining a trial court may dismiss a case *sua sponte* for failure to prosecute).

Further, the referral of the motion for summary judgment, (D.E. 22), and the motion for reconsideration, (D.E. 29), to Magistrate Judge Hampton is **TERMINATED**. Any pending motions are **DENIED as moot**. A final judgment will be issued separately.

SO ORDERED.



DAVID S. MORALES  
UNITED STATES DISTRICT JUDGE

Dated: Corpus Christi, Texas  
August 2024